

Volume 2. Air Operator Certification and Fractional Ownership Application

CHAPTER 4. THE APPLICATION PROCESS - 14 CFR PART 91K

SECTION 3. PHASE 2 - FORMAL APPLICATION

421. INSTRUCTIONS TO THE APPLICANT ON THE FORMAL APPLICATION.

A. Requirements of Formal Application. It is essential during the preapplication meeting that the applicant has a clear understanding of the form, content, and documents required for the formal application. The applicant shall be informed that the formal application must be submitted to the assigned FSDO and, after initial review, notification of its acceptance or rejection will be provided by letter within 10 working days. The applicant should be encouraged to submit the formal application as far in advance as possible of the intended starting date.

NOTE: The inspector should inform the applicant that while FAA inspectors will furnish informal guidance and advice during the preparation of required documents and manuals, the production of acceptable documents and manuals is solely the responsibility of the applicant.

B. Formal Application Letter. The formal application letter serves as the vehicle to transmit the package of documents required to pass through Gate II. The inspector shall inform the applicant that the formal application must be a letter containing a statement that includes a request to be issued MSspecs to conduct operations under 14 CFR part 91, subpart K. The letter should include a mailing address and indicate the full name, title, and address of the designated agent for service, if other than the program manager. In addition, the formal application should be received by the FSDO, a minimum of 90 days before operations are to begin, and preferably as far in advance of the proposed start-up date as possible.

C. Formal Application Letter: Acceptance or Rejection. The applicant should be notified by letter whether the formal application is accepted or rejected. FAA acceptance of a formal application does not constitute approval or acceptance of individual attachments. Each attachment will be evaluated during subsequent phases of the application process. If the formal application is not acceptable, return it to the applicant with a written explanation of the reason(s) for its return.

423. SOI PROCESSING AND FSDO TEAM ACTIONS. Once the formal application is accepted, the FSDO will form an application team and assign an inspector as the project manager. The project manager will be the applicant's point of contact within the FSDO. The application team is responsible to review the application package to confirm that it contains the required information and attachments.

425. FORMAL APPLICATION ATTACHMENTS.

The formal application letter must be accompanied with at least the attachments described in the following subparagraphs.

A. Management Personnel Resumes and Documentation. Part 91, subpart K does not specify management positions or qualification, unless the applicant applies for a Continuous Airworthiness Maintenance Program (CAMP). Program Managers requesting a CAMP shall provide a resume outlining the qualifications and experience for applicable management personnel. Additionally, personnel authorized to sign MSspecs and designated as company points of contact should be identified.

B. Program Operating Manual (POM). This manual or sections of manuals contain information about fractional ownership general policies, duties, responsibilities of personnel, operational control policy, and procedures. This manual(s) should include instructions and information that allow personnel to perform their duties and responsibilities. Part 91, section 91.1025, prescribes the content of these manuals. A draft outline of the major parts of all required manuals is required before gate II.

NOTE: This draft outline will help to ensure that all required material is accounted for and that the major parts of any incomplete manual(s) are listed in the schedule of events with proposed dates for submission to the FAA.

(1) POM Requirements - General.

(a) When applicable, the manual shall contain the contents required by section 91.1025 in enough detail so that the program manager's flight, ground, and maintenance

personnel may properly perform their assigned duties. During the review of the POM, the FAA shall ensure that no conflict with the regulations exists. The district office will provide guidance to the program manager for developing his/her POM, should time and resources be available. The district office will not draft, or otherwise prepare, nor accept responsibility for developing the content of the manual.

(b) The program manager must have a system that ensures all manuals, publications, checklists, and airport analyses that are continually revised are kept current and have a means to ensure regulatory compliance. Program managers may amend their manuals and incorporate new or revised policies and procedures, provided they comply with the appropriate regulations. Any revisions to the MSpecs made by the program manager must be approved before using them.

(c) The fractional program manager must establish procedures for distribution of its manual system. A copy of the manual(s) or the appropriate portions of the manual (including revisions) must be made available to all of the program crewmembers, maintenance, and ground operations personnel. The fractional program manager must also issue a copy of the POM to the Administrator. Each individual issued a POM or appropriate portions shall keep it up to date with all revisions, as required by the applicable regulations found in part 91. In addition, the manual must have a tracking system to record the revisions made to the manual, the date the revision was inserted into the manual, and the date the revision became effective. A record of revisions should be kept in order to provide evidence of currency.

(d) Section 91.1023 states that program managers that are also certificated to operate under part 121 or 135 may be authorized to use the operating manual required by those parts to meet the manual requirements of subpart K, provided:

- i. The policies and procedures are consistent for both operations, or
- ii. When policies and procedures are different, the applicable policies and procedures are identified and used.

NOTE: MSpec MA059, Authorization to Use Alternate Manuals, Programs, or Systems, provides information about authorization for alternate manuals, programs, and systems.

C. *Requests for deviations.* Allowable part 91, subpart K deviations include:

- Section 91.1041(g), Proving Tests – Reduction of proving test hours
- Section 91.1049(b), Single Pilot Operations
- Section 91.1049(d), 2 Pilot Operations

- Section 91.1053, Crewmember Flight Experience Requirements
- Section 91.1055, Crew Pairing Requirements
- Section 91.1063(b), Part 121 Training Requirements
- Section 91.1063(c), Part 135 Training Requirements

D. *General Maintenance Manual.* For programs that combine both part 91, subpart K, and part 135 operations, this manual may be combined with the General Operations Manual for part 135 operators, provided that all the required contents for both manuals are included in the combined document, and differences in operations are clearly defined.

(1) Aircraft Maintenance Manuals/Programs.

- (a) Inspection program.
- (b) Maintenance recordkeeping.
- (c) Emergency maintenance required records.

E. *Weight and Balance Procedures/Program.*

F. *Training Program.* The training curriculum must be attached to the formal application letter. If authorized by the administrator, section 91.1063 allows a program manager to comply with the applicable training and testing sections of part 121 or 135, except for the operating experience requirements, instead of sections 91.1065 through 91.1107. Training curriculums must include at least the following curriculum segments appropriate to each crewmember position:

- (1) Basic indoctrination training.
- (2) Emergency training.
- (3) Initial aircraft ground training.
- (4) Initial aircraft flight training.
- (5) Upgrade training.
- (6) Recurrent training.
- (7) Differences.
- (8) Requalification.
- (9) Hazardous materials recognition.

G. *Aircraft Flight Manual.*

H. *Aircraft Operations Manual (not required for part 91, subpart K, operators who choose to use the manufacturers approved Aircraft Flight Manual).*

I. *Minimum Equipment Lists (MEL), if applicable.*

(1) Section 91.1115 provides for the use of an approved MEL to allow the fractional ownership program manager to operate its aircraft with certain inoperable equipment and instruments. The program manager's Operating

Manual will describe how the approved MEL will be used. The manual will contain instructions and procedures for guidance of flight and ground personnel, including a procedure to properly evaluate the existing conditions to ensure the release of a safe aircraft.

(2) A fractional ownership program manager using aircraft that do not have an FAA-approved MMEL should apply to its FSDO if it desires to use an MEL. In the application, the program manager should specify the instruments and equipment to be included in the aircraft's MMEL. The FAA FSDO will forward the request to the Flight Operations Evaluation Board (FOEB) for consideration.

(3) Program managers must apply to its FSDO for authorization to use an MEL under part 91, subpart K. A program manager may not use a part 91 MEL for subpart K operations.

(4) Program managers that operate aircraft under part 91, subpart K, and parts 121, 125, or 135, and have an approved MEL under such parts, must use the air carrier MEL for part 91, subpart K, operations.

J. Schedule of Events. The schedule of events lists the items, activities, programs, and aircraft and/or facility acquisitions that must be accomplished or made ready for FAA inspection before application. It must include a best estimate of the date the applicant will acquire each item or accomplish each event, including a planned start and completion date. These estimated dates must be logically sequenced. For example, training programs must be approved before beginning crewmember training. When FAA approval is required before beginning a subsequent event or item, the applicant should provide at least 30 days for the FAA to review, inspect, and approve each item or event. Failure to accomplish an item or event in a satisfactory manner, or in accordance with the schedule of events, could delay the issuance of MSpecs. If at any time during the application process, the applicant finds it necessary to revise the schedule of events, the FAA project manager should be notified as soon as practical.

K. Other Programs, Manuals, and Material. The following is a list of additional programs, manuals, and material that **may** apply to the fractional ownership program:

- (1) Cockpit checklist
- (2) Passenger briefing cards
- (3) Environmental impact statement

(4) Destination Airport Analysis program (applies to large turbine-engine powered transport category airplanes)

(5) Flight and rest scheduling program

(6) Hazardous Materials Recognition Program

(7) Security Program (coordinated with the principal operations inspector (POI), but issued by Transportation Security Administration (TSA))

(8) Flight Attendant Manual (required only for aircraft certificated to carry more than 19 passengers, or if operator chooses to carry a person performing such duties)

(9) Flight locating procedures

(10) Maintenance Reliability Program (optional)

(11) Proving and/or validation test plan

(12) Continuous analysis and surveillance system for aircraft maintained under a Continuous Airworthiness Maintenance Program (CAMP)

(13) Compliance statement

NOTE: On the compliance statement attachment, the applicant must list all part 91, regulations that are applicable to their proposed operation (e.g., compliance statement). They should identify applicable subparts and relevant sections, including a specific reference and/or a brief description, to a manual or other document. The brief description or reference must describe the method of compliance for each regulation listed.

(14) Owner acknowledgment/contract certification statement

(15) List of aircraft

(16) Internal safety reporting procedures

(17) Incident/Accident response procedures

(18) Pilot safety background checks and procedures

(19) Location of the records repository

(20) Other requested authorizations

(21) Drug and alcohol misuse education program

NOTE: Once the FSDO has accepted everything in the application phase; the applicant may advance to Phase III – Document Compliance.

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